

THE CITY OF KEY WEST  
PLANNING BOARD  
Staff Report

To: Chairman and Planning Board Members

Through: James Singelyn, Acting Planning Director

From: Alison Higgins, Resiliency Manager

Meeting Date: September 18, 2025

Application: **\*Text Amendment of the Land Development Regulations** - A resolution of the City of Key West Planning Board recommending an ordinance to the City Commission to amend Land Development Regulations amending chapter 110 of the code of ordinances entitled “resource protection”, article iii entitled “environmental resources”, establishing division 5, entitled “green building”; establishing requirements for green building certification as a requirement; establishing an green building fee program for projects that do not achieve the required green building certification level, authorizing property owners and developers to pay an green building fee-for the project into the city’s adaptation and sustainability fund, which funds are reimbursable to the property owner or developer pursuant to the level of green building compliance achieved by the project; designating the Adaptation and Sustainability Fund (Fund 108) for the deposit of the green building fees generated through the green building program, and providing the uses for which the fees can be used; providing for severability; providing for an effective date.

Request: The text amendment would create a Green Building Certification standard for all building permits similar to what the City’s Building Permit Allocation System (BPAS) has had in place for residential units for over a decade. The biggest difference is while BPAS has no teeth for compliance, the Green Building Program would enact a financial incentive, which if not utilized, funds other adaptation and sustainability projects throughout the community, much like Art In Public Places. This text amendment does not create more restrictive or burdensome development standards as it incentivizes utility and insurance savings and allows for non-compliance at the maximum cost of 2%.

Sponsor: Brian L. Barroso, City Manager

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## **Background**

Since 2007, more than 3 dozen Florida cities and counties have created ordinances for green building. Most of these are incentive based, granting expedited permitting, financial incentives or variances for Land Development Regulations such as density, open space, parking, etc., to those that achieve certification. Staff met with the four entities that have mandated green building and enacted financial tools to achieve compliance:

City of Boynton Beach (2011): Staff met with the City Attorney, who was the creator of the first known Green Building Program of this type in the State of Florida. Their program has been in effect for 14 years and collects

a five hundredths of a percent (0.05%) fee based upon the valuation on all building permits. There are no rebate options for certification, but the funds are allocated for public energy, water, and recycling rebates as well as City transportation stormwater projects, education efforts and staff salaries.

City of Miami Beach (2016): Miami Beach has a modified fee-based Green Building Program. Their program was enacted 9 years ago and collects a five percent (5%) fee for all new construction larger than 7,000 square feet, or ground floor additions to existing structures that encompass over 10,000 square feet of additional area. Projects have 2 years to request reimbursement based on their level of green certification achieved. Unremitted funds are allocated for environmental restoration/remediation and monitoring projects; stormwater improvements; and sustainability planning efforts.

City of Miami (2009): Miami has a Sustainability Ordinance, which requires buildings of more than 50,000 square feet in certain areas to be Silver certified and collects a two to four percent (2-4%) fee depending on the size of the building. Uncollected funds are placed in the Miami 21 Public Benefits Trust Fund which can be used for affordable housing green building, parks and public spaces, historic preservation, brownfields, and civic support.

City of Jupiter (2009): Jupiter mandates silver certification for all Small/Large Scale Planned Unit Developments. They declared Certification as a “public benefit” and assess 5% on the value of eligible building permits. Funds are held for one year after Certificate of Occupancy (CO) and 100% reimbursed with proof of Silver Certification. There is no reimbursement for Bronze Certification. Unclaimed reimbursements are forfeited to implement green design standards on publicly owned properties in town.

Based on these programs, staff has developed a draft ordinance for our own Green Building Program, establishing regulations and procedures that will help the City as well as businesses and residents become more efficient and resilient.

### Review Criteria

Per Section 90-520, applications for a text amendment to the land development regulations shall evaluate the following:

Review Criteria	Staff Analysis
<i>Justification. The need and justification for the proposed change shall be stated:</i>	Florida Building Code represents the minimum safety and efficiency standards. Green Building Certification reduces monthly utility costs and sets stronger resiliency standards which may reduce annual insurance costs.
<i>Comprehensive plan consistency. Identifying impacts of the proposed change in zoning on the comprehensive plan. The zoning must be consistent with the comprehensive plan.</i>	The proposed amendment is consistent with the goals, policies, and objectives of the comprehensive plan. <ul style="list-style-type: none"> <li>• Policy 1-11.1.16: “Enact Resilient Standards” [that] “incentivize property owners to elevate structures, select materials, and adopt techniques in order to minimize risk to wind, flood, and storm surge damages.</li> <li>• Policy 1-11.1.14: “consider proactive steps and pilot programs to adapt for sea level rise and storm surges”</li> <li>• Obj 4-2.6: “utilize best management practices in efficiencies and conservation as a mandatory step in meeting projected demands”</li> </ul>
<i>Impact on surrounding properties and infrastructure. The effect of the change, if any, on the particular property and all surrounding properties.</i>	The proposed amendment will increase the resiliency and decrease the utility costs not only individual properties that choose to take advantage of the rebate, but also the City-wide

<i>Potential land use incompatibility and impacts on infrastructure shall be identified.</i>	infrastructure when participants do not take advantage of the rebate.
<i>Avoidance of spot zoning. The proposed change shall not constitute a spot zone change.</i>	The proposed amendment is not specific to a single parcel. The proposed action is consistent with the comprehensive plan as noted above.
<i>Undeveloped land with similar zoning. The amount of undeveloped land in the general area and in the city having the same zoning classification as that requested.</i>	This proposed amendment is not associated with a particular Comprehensive Plan Future Land Use designation or specific zoning district.

### **Analysis:**

According to the U.S. Environmental Protection Agency (EPA), existing buildings are one of the biggest contributors to environmental pollution in the U.S., accounting for 40 percent of total energy use, 72 percent electricity consumption, 39 percent of the carbon dioxide emissions, and 13 percent of total water consumption.

The Florida Green Building Coalition (FGBC) has developed a green building rating system to address design and construction activities to improve the efficiency and resiliency of residential and commercial buildings. Green certified buildings save money and resources and have a positive impact on the health of occupants and stability of the building.

Green Building Certification promotes efficient and resilient design, construction, operation, maintenance and deconstruction of buildings and site development. The green building provisions are designed to achieve the following objectives:

- 1) Increase energy efficiency in buildings;
- 2) Encourage water and resource conservation;
- 3) Reduce waste generated by construction projects;
- 4) Reduce long-term building operating and maintenance costs;
- 5) Improve indoor air quality and occupant health;
- 6) Reduce risk from severe weather.

During the 2024 election referendum votes, the residents of the City of Key West signaled their support for Resiliency projects by passing the “Infrastructure Adaptations Related to Weather/Flooding” Bond at 68.7%, higher than the other 3 Bonds that were also on the ballot that year.

The Key West Strategic Plan surveyed just under 4,000 residents to assess their priorities. Affordable Housing, Sea Level Rise and Environmental Protection ranked 1<sup>st</sup>, 2<sup>nd</sup> and 4<sup>th</sup>, respectively. The Green Building Program addresses action items across all three priorities.

The US Army Corps of Engineers (USACE) completed a Florida Keys Coastal Risk Mitigation Feasibility Study in 2022 and identified 2,028 residences, 382 commercial buildings and 12 critical infrastructure sites in Key West in need of elevation or floodproofing.

The City recently completed a Vulnerability Assessment of our islands and designated 11 hotspots with 408 at-risk critical assets in need of resiliency upgrades. An Adaptation Plan will follow in November of this year,

outlining priority projects citywide, with budgets and potential grants. Even with grants assisting, these critical projects will need City funds to complete.

### Green Building Fee Program

A video giving an overview of the Green Building Program can be found on the City's YouTube page:

[https://youtu.be/jz7edKiMjac?si=FIQ5dSV\\_NiUJ0ju0](https://youtu.be/jz7edKiMjac?si=FIQ5dSV_NiUJ0ju0)

In order to achieve efficient and resilient building standards, the proposed ordinance requires upfront payment of a Green Building Fee. This fee would be paid at time of permit application, when other fees are paid. This fee is proposed as two percent (2%) of the construction valuation, based on average costs to achieve Gold Certification (2.2%).

The proposed ordinance provides for refunds (via City check) of the fee based upon the level of green building certification achieved. The participant is required to obtain green building certification within six months of permit closeout, with the possibility of a one-time six-month extension, in order to obtain the refund. The level of the refund is detailed in the following table:

Certification Compliance Schedule:

Level of Certification Achieved	Green Building Fee Reimbursement to Participant for Meeting Certain Green Building Certification Levels
Failure to obtain Certification	0% refund of payment
FGBC Bronze	50% refund of payment
FGBC Silver	75% refund of payment
FGBC Gold	100% refund of payment
FGBC Platinum	100% refund of payment

After the 6-month period has ended, a property owner can submit at any time, proof of achieving any level of FGBC Green Certification and receive a flat fee rebate, which is based on cost of applying for Certification (\$3,500) and 2% of \$24,999 worth of labor and materials (\$500). This will provide an incentive and an opportunity for properties that may have only completed small projects over time to still benefit from the new program.

Post Deadline Flat Fee Rebates:

Level of Certification Achieved	Green Building Fee Rebate to Participant for Meeting Green Building Certification Levels
All levels of FGBC Certifications	\$4,000 (\$3,500 certification + \$500 labor/materials)

### Financial Impact

The 2% Green Building Fee is assessed on all building permits with a valuation greater or equal to \$25,000. (See Equity Measures below for the ½% fee for valuations less than \$25,000). A rough breakdown of FY23 building permits evidence the following trends:

Building Permit Valuations	% of total building permits	Actual # of building permits	Avg Fee	% of Total Collected Fees
\$ 0 - \$24,999	75%	2,638	\$ 40	3%
\$ 25,000-\$49,999	13%	438	\$ 680	10%

\$ 50,000-\$99,999	6%	226	\$ 1,347	10%
\$100,000-\$299,999	4%	125	\$ 3,320	14%
\$300,000-\$999,999	2%	55	\$ 10,260	19%
\$1M – \$6.5M	1%	18	\$ 46,857	28%
> \$6.5	.06%	2	\$ 245,097	16%

#### Value to Property Owner

Even without reimbursement, investing in a Green Certification has a strong business case. Based on long term savings, the State of California concluded that LEED Gold was the most cost-effective design objective for green buildings. According to studies, on average, a green certified property is valued at 2.9% higher, rents at 31% percent higher, raises cognition scores of its employees by 26% and costs 12% less to maintain. Specifically, the Tier achieved also affects a property owners bottom line via energy and water savings, as shown in the table below.

LEED Certification	Additional Cost to Build*	Program Reimbursement	Annual Efficiency Savings
Certified	1% above code	50%	20%
Silver	1.9%	75%	25%
Gold	2.2%	100%	30%
Platinum	5%	100%	40%

*\* Based on U.S. Green Building Council studies. Costs for FGBC are less.*

Applying the table above to an actual new 1,500 square foot residence in New Town, the table below shows the possibilities available based on certification level achieved:

LEED Certification	Additional Cost to Build	Program Reimbursement	Annual Efficiency Savings
Certified	\$3,307	\$3,286	\$237
Silver	\$6,283	\$4,929	\$296
Gold	\$7,275	\$6,572	\$355
Platinum	\$16,535	\$6,572	\$474

None of these numbers takes into consideration additional insurance savings.

#### Equity Measures

The Green Building Program was presented to the City Commission in June of 2024. There were concerns from the Commission regarding the equity of this mandate, across both smaller projects and large affordable projects that might find the green certification mandate costly to acquire. An analysis of all building permits across Fiscal Years 2022 and 2023 showed that ~80% of permits were for less than \$25,000. Therefore, in the ordinance, the fee for projects less than 25,000 is halved and set as a one-half percent (.5%) of the construction valuation. Applied to the FY23 building permits, this fee averaged \$40.00 with a max of \$125.00.

For residential projects that provide one hundred percent (100%) affordable housing units (as defined by either the US Housing and Urban Development office or State of Florida) or workforce housing (as defined by the City of Key West) or homesteaded (as defined by the State of Florida), the fees are waived entirely.

Lastly, the anytime, \$4,000 flat-fee rebate allows for residents and businesses that have been slowly working towards a more efficient and resilient building to receive funds outside the 6-month compliance window. This reimbursement does not count specific fees paid over time, but does account for the cost of achieving and applying for certification at any level.

### Special Considerations

County, municipal, school district, water management district, state university, Florida College System institution, and state court buildings are already mandated by Florida Statute 255.2575 to meet any level of Green Building Certification. To recognize this, they may opt to pay instead upon final inspection, and would provide the difference between the 2% Fee Calculation and the level of Certification achieved.

Once a property owner has a valid and current Green Certification on file, they will be exempted from paying the Green Building Fee until they need recertification. This will allow green building certifications from FGBC, US Green Building Council (LEED), Green Globes, or National Association of Home Builders.

Also, to avoid unnecessary burdens, the Hurricane Exception will waive all Green Building Fees for 6 months after the landfall of any declared hurricane has affected the City of Key West, as measured by FEMA's major disaster declaration authorizing Individual Assistance for Monroe County.

### Educational Measures

As requested from contractors at the quarterly City Building Official meeting, the City will create many educational resources to property owners and contractors to navigate this new mandate, including hosting FGBC trainings, recommending FGBC pathways to certification tiers, and recommending suitable materials for the historic district. The fee portion of the Green Building Program will not officially start until staff has had adequate time to prepare and disseminate educational materials.

### Sustainability and Adaptation Fund

The fees collected as part of this program will be held until the deadline of 6 months for reimbursement or extension has passed. Once funds are declared unremitted, these funds will be deposited into the existing Adaptation and Sustainability Fund. Expenditures of these funds shall follow City procurement rules (City Ordinances, Chapter 2, Article VII). Proposed uses of these funds will be used to include improvements that increase the efficiency and resiliency of the City such as:

(1) Energy and water efficiency projects:

Projects that focus on reducing consumption of electricity, fuel, and water through improved technologies, design, or operations. Examples include, but are not limited to retrofitting buildings, upgrading equipment, and implementing conservation programs that lower costs.

(2) Wind mitigation projects:

Wind mitigation projects strengthen structures to withstand high winds, hurricanes, and other severe weather events. Examples include, but are not limited to reinforcing roofs, installing impact-resistant windows, and improving building envelopes to minimize damage and enhance safety.

(3) Flood mitigation projects

Flood mitigation projects aim to reduce or prevent flooding in vulnerable areas through infrastructure, land management, and natural system improvements. Examples include, but are not limited to elevating roadways, installing pumps or levees, and restoring floodplains to improve drainage capacity.

(4) Environmental restoration projects

Environmental restoration projects repair or enhance ecosystems such as wetlands, shorelines, or habitats. Examples include, but are not limited to mangrove restoration, dune and shoreline stabilization, removal of invasive species, replanting of native vegetation, and habitat enhancements for fish and wildlife.

(5) Green infrastructure projects

Green infrastructure projects use natural systems and vegetation to manage stormwater and improve urban environments. Examples include, but are not limited to rain gardens, bioswales, green roofs, and permeable pavements that filter pollutants and reduce runoff.

(6) Stormwater quality and quantity improvements

Stormwater projects focus on managing both the amount and cleanliness of stormwater runoff to protect local waterways. Examples include, but are not limited to detention basins, filtration systems, or upgrades to storm drains that help control flooding and remove pollutants.

(7) Adaptation and sustainability planning and policy efforts

Planning and policy initiatives guide long-term community resilience to climate change and resource challenges. Examples include, but are not limited to strategies, ordinances, and programs that promote hazard preparedness, resilient and resource efficient buildings, and environmental protection.

(8) Staff to support the above

Dedicated personnel are essential to manage, implement, and monitor these projects effectively. Staff may include engineers, planners, environmental specialists, and program managers who ensure compliance, coordination, and successful outcomes.

Specific examples of projects the Sustainability and Adaptation Fund could fund include efficiency projects to reduce the City's current \$2.5M annual utility bill, resiliency projects to reduce wind and flood insurance across our 100 City buildings, and stormwater projects within our lowest neighborhoods.

The City will report annually during Budget Workshops on total fee revenue, refunds issued, and proposed projects to be funded with forfeited fees.

**Land Development Regulations Text Amendment Process:**

Planning Board Meeting:	October 16, 2025
Planning Board 2 <sup>nd</sup> Meeting:	November 20, 2025
City Commission (1st Reading):	December 2, 2025
Dept. of Commerce (1st Review):	Up to 60 days
City Commission (2nd Reading / Adoption):	TBD
Local Appeal Period:	30 days
Dept. of Commerce Review (2nd Reading):	Up to 45 days
Dept. of Commerce Notice of Intent (NOI):	Effective when NOI posted to DOC site

**RECOMMENDATION:**

The Planning Department, based on the criteria established by the Comprehensive Plan and the Land Development Regulations, recommends to the Planning Board that this request to amend the Land Development Regulations be recommended for APPROVAL to the City Commission.